there is no such defense if the tenant does not abandon the premises after such constructive eviction. *Higbie Co. v. Weeghman Co.*, 126 Ill. App. 97. And to be justified in abandoning, the interference must be persisted in and continued at the time of abandonment. *Ryan v. Jones*, 20 N. Y. Supp. 842.

LIBEL AND SLANDER—HOLDING PUBLIC OFFICIAL UP TO REPROACH.—CHURCH V. NEW YORK TRIBUNE ASS'N., 118 N. Y. SUPP. 626.—It was *held* to be libelous *per se* if a publication fairly imputed that a public officer was guilty of shirking and disregarding his duties, thereby holding him up to reproach and ridicule.

The general rule is, that words are actionable *per se* which impute to an official a wilful neglect of duty. *Scougale v. Sweet*, 124 Mich. 311. It is even stronger evidence of a libel *per se* if this neglect is characterized as being culpable and from improper motives. *Larabee v. Minn. Tribune Co.*, 36 Minn. 141. And whether the publication amounts to a criminal charge or not, as long as it tends to bring another into ridicule or disgrace, it is actionable *per se*. *Washington Times Co. v. Downey*, 26 App. D. C. 258. But to render such words actionable at all, they must be published during his term of office. *McKee v. Wilson*, 87 N. C. 300. *Contra*: *Russell v. Anthony*, 21 Kans. 450. And in determining whether the language is libelous *per se*, it should be construed as a whole and its ordinary meaning given to it. *Daily v. N. Y. Herald Co.*, 151 Fed. 114. No criticism of a person holding a public office is libelous unless it is malicious. Townsend on *Slander and Libel*, Sect. 254. Thus, if the words are published in good faith and in the belief that they are true, public policy exempts one from liability. *Bearce v. Bass*, 88 Me. 521.

MUNICIPAL CORPORATIONS—POLICE POWER—ORDINANCES—VALIDITY.—STATE V. PERRY, 65 S. E. 915 (N. C.).—*Held*, that under its police power to protect the public health, a city may establish and control public markets at which perishable food, such as fresh fish, shall be sold, and may prohibit the vending by retail of such perishable food except at the public markets.

The right to establish markets has been treated as a branch of the sovereign power. *Bowling Green v. Carson*, 10 Bush. 64 (Ky.); *Cougot v. City of New Orleans*, 16 La. Ann. 21. Still, in other jurisdictions, cities are given power under their charters to establish markets. *St. John v. City of New York*, 13 N. Y. Super. Ct. 315. On the other hand, the right of regulating markets is necessarily a municipal police power. *City of New Orleans v. Morris*, 3 Woods C. C. 107 (La.). But an ordinance regulating the same may be declared void for unreasonableness, where it is oppressive, unequal, unjust, or altogether unreasonable. *City of Lamar v. Weidman*, 57 Mo. App. 507. In *Village of Buffalo v. Webster*, 10 Wend. 99 (N. Y.), it was held that a by-law, that meat should not be sold except at a designated place, was good, not being a restraint of the right to sell meat, but a regulation of that right. Likewise the city of New Orleans may prohibit the sale of oysters in the city, except at certain designated stands. *Morano v. City of New Orleans*, 2 La. 217. In *Jack-*

*sonville v. Ledwith,* 26 Fla. 163, there was a limitation to the rule that the restricting of the sale to public markets of perishable food is not an illegal restraint of trade or a monopoly, in that reasonable facilities for selling at public markets must be given. And it has been held that such restrictions are altogether void as being in restraint of trade and unreasonable. *St. Paul v. Laidler,* 2 Minn. 190.

PERPETUITIES—VALIDITY OF CHARITABLE TRUST—REMOTENESS.—RUSSELL V. GIRARD TRUST CO., 171 FED. 161.—A settlor deposited $2,000 in trust for the benefit of the State of Pennsylvania. It was to be invested until it should so accumulate, together with any other sums deposited with the trustee, that the whole debt of the state might be paid off. The indebtedness of the state at the time was $40,000,000. *Held,* that the trust was void as it might exceed the limitation of the rule of remoteness or accumulations.

The general rule seems to be that where there is an immediate gift to trustees for certain charitable purposes, but the application will not take effect except on the occurrence of an event uncertain in its nature, the gift is valid, and the court will allow the trustee to hold the fund a reasonable time to await the happening of the contingency. *Jones v. Habersham,* 107 U. S. 174; *Appeal of Goodrich,* 57 Conn. 275. As in *Almy v. Jones,* 17 R. I. 265, it was held that a bequest to take effect when sufficient money was raised to found an art institute was valid as a reasonable time would be allowed for the performance of the conditions. But it has been held that all devices or grants, whether for charitable purposes or otherwise, must vest within the time limited by the rule against perpetuities. *Jocelyn v. Nott,* 44 Conn. 55. The English rule is the same as the American, but provides that a future gift conditional upon an uncertain event is subject to the rule against perpetuities and is void *ab initio. In re White's Trusts,* 33 Ch. Div. 449.

TELEGRAPHS — MENTAL ANGUISH — DAMAGES.— LYLES V. WESTERN UNION TELEGRAPH CO., 65 S. E. 832 (S. C.).—*Held,* that damages may be recovered for mental anguish alone resulting from the non-delivery of a message, although this mental anguish was not suffered until after the message had been delivered.

An examination of the adjudged cases shows that the great weight of authority is against recovery of damages for mental suffering resulting from negligent delay upon the part of the company, unless the mental suffering is coupled with other injuries. *Chase v. W. U. Tel. Co.,* 44 Fed. 554. *Contra*: *W. U. v. Cline,* 8 Ind. App. 364. And if the law expressly provides that a company is liable for all actual damages sustained by its failure to transmit a message within a reasonable time, a recovery for mental suffering is not included. *Francis v. W. U. Tel. Co.,* 58 Minn. 252. For the mental suffering is too uncertain and speculative to be an element of damages. *W. U. v. Wood,* 57 Fed. 471. And the fact that there was not suspense during the delay, but only mental anguish subsequent to delivery does not affect the rule. *Kester v. W. U. Tel. Co.,* 55 Fed. 603. But